

TITLE OF REPORT: **Review of Pay Protection**

REPORT OF: **Mike Barker, Strategic Director, Corporate Services and Governance**

Purpose of the Report

1. The purpose of this report is to seek Cabinet's approval and recommendation to Council of changes to the Council's policy for pay protection.

Background

2. Continual reviews of terms and conditions of employment have been undertaken since 2010 in order to contribute to the savings targets and improve efficiency, remove anomalies and allow the Council to operate as a modern employer with fair and appropriate terms and conditions, duly reflecting our values and aspirations.
3. Although not a term or condition of employment, the review has included the Council's approach to pay protection: i.e. how we safeguard the pay of an employee who is affected by organisation change, for example, by a service restructure in which they are redeployed into a lower paid job, or a pay and grading review. It provides a period of time during which the employee is able to adjust to a reduction in earnings.
4. The Council's current pay protection arrangement is 4 years. It was agreed to implement a 4 year pay protection period as part of the Council's single status agreement and this took effect when the first phase of the job evaluation review was implemented in 2006, backdated to 1 October 2005. In the first year the employee receives spinal column point protection. In the 2nd, 3rd and 4th years the employee is protected by a maximum of two grades.
5. Pay protection has been successful in supporting the workforce at times of significant change (and will continue to play an important role in the redeployment process), providing financial support to employees when moving into new roles at a lower grade whilst also contributing to minimising the number of compulsory redundancies.
6. The Council is committed to ensuring that the negative impact of changes to the workforce are minimised as far as possible and employees continue to receive some level of protection when changes affect their pay. However, at a time of significant financial pressure it is necessary to consider whether the existing arrangements continue to be affordable.
7. Since 2012 there have been 170 employees in receipt of pay protection. The cost to the Council of providing 4 years pay protection to these employees has been £1.667m. The cost of protection for the 39 employees currently in pay protection over the 4 year

period is approximately £644k. This does not take into account any future protection arrangements that may be put in place as a result of employees redeployed as a part of the implementation of future reviews or budget reductions.

8. Extensive consultation has also been carried out with the Council's recognised trade unions to ascertain their views on the value of the current policy and impact of any potential changes. Their views are also set out at Appendix 1, along with an analysis of the position informing the proposal below.
9. In carrying out the review, reference has also been made to the approach taken by other local authorities at both a national and local level. It can be noted that Gateshead is the only employer currently offering a protection period of four years.

Proposal

10. After carefully considering the trade unions' representations and what level of pay protection is appropriate given the ongoing significant financial pressures, it is proposed to retain the 4 year protection period, but that the level of protection should taper over each year (100% protection in year one, 75% in year 2, 50% in year 3 and 25% in year 4).
11. The proposal will contribute a 38% saving in the cost of employment of staff subject to pay protection, and ensure that the Council has a modern and appropriate human resources policy framework which is affordable and competitive. The proposal has been developed on the basis that pay protection is of value and should be continued to ensure support is provided to employees faced with redeployment into a lower grade post.
12. It is proposed to implement the revised protection arrangements from 1 October 2017.

Recommendations

13. It is recommended that approval is given to the proposal outlined in this report and Cabinet recommends its adoption by the Council.

For the following reasons:

- (i) To achieve savings in the cost of pay protection, and therefore the cost of employment.
- (ii) To ensure that the Council has modern and appropriate employment policies which are affordable and competitive.
- (iii) To minimise redundancies.

Policy Context

1. The proposals within this report have been developed under the Council's Workforce Strategy and Plan, and support the priorities in the Medium Term Financial Strategy, Council Plan and Vision 2030, particularly reducing costs.
2. Developing effective operational practices and modernised terms and conditions of employment will contribute to the avoidance of redundancy whilst recognising that our human resources policy framework needs to be competitive and sustainable.

Background

3. Given the continuing need to identify savings to bridge the funding gap identified in the Medium Term Financial Strategy, along with the increasing pressure to ensure our terms and conditions reflect the current climate and the likelihood that this pressure will continue for the foreseeable future, we need to ensure our approach to pay and reward fits the organisation's values and commitment to look after the workforce whilst recognising the need to be competitive and sustainable.
4. The Council's Workforce Strategy and Plan confirm this need to have a Pay and Reward Strategy which is fit for purpose, including the continued review of terms and conditions of employment to ensure they are consistent with the Council's aspirations set out in the Council Plan.
5. The review of terms and conditions will continue in order to ensure services are delivered in the most efficient and effective way possible and are sustainable, reduce the need for further redundancies because of competitiveness/lack of competitiveness or inability to be more flexible and make services more cost effective to increase success in traded services.
6. Although not a term or condition of employment, the review has included the Council's approach to pay protection: i.e. how we safeguard the pay of an employee who is affected by organisation change, for example, by a service restructure in which they are redeployed into a lower paid job, or a pay and grading review. It provides a period of time during which the employee is able to adjust to a reduction in earnings.
7. The Council is, therefore, proposing an amendment to the pay protection arrangement that will contribute to savings in the costs of employment and allow the Council to operate as a modern organisation with appropriate employment policies which are affordable and competitive.
8. The Trade Unions representations have been fully considered in frequent and regular meetings. Their initial comments were as follows:
 - They believe the pay protection arrangements are what have facilitated changes to the workforce in the past and ensured good working relations between trade unions, the Council and employees.
 - They also believe that the current protection arrangement has been crucial in achieving the outcomes the council and trade unions have wanted for employees over the previous 5 years. The trade unions have stated that the success of the protection agreement has been shown through the lack of compulsory redundancies and the ability to redeploy employees into new roles within the

Council where their post has been made redundant. Furthermore they believe that it sets out the difference as to why Gateshead Council has been more successful than other authorities in achieving this and although it is at a cost, it is on a sliding scale and it offers value for money. They believe that it is imperative that the agreement remains as it is to continue this good work in significantly reducing the number of CRs. They also believe that the agreement helps retain the morale and goodwill of affected employees, and goes someway to protect valued employees against potentially devastating financial impact.

9. A summary of the proposal is shown below, along with the Trade Unions' response to the proposal.

Proposal relating to reducing the pay protection period

10. Several options to reduce pay protection have been presented to the trade unions. The proposals have been developed on the basis that pay protection is of value and should be continued to ensure support is provided to employees faced with redeployment into a lower grade post. These options include reductions in the protection period as well as tapering over the period. The savings that could be achieved from the various options range from a maximum of 75% to a 25% saving from the current position and are shown in more detail in the table below. This assumes that only a small number of employees would be protected on 2 grades above their new grade.

Option	Detail	Cost over total protection period (£)	Saving over current protection	% saving
Current	Existing – 4 years - 1st year full protection, 3 years 2 grades above new grade	643,576	N/A	N/A
1	1 year full SCP	160,894	482,682	75%
2	2 years full SCP or 3 years - 100%, 66%, 33%	321,788	321,788	50%
3	4 years - 100%, 75%, 50%, 25%	402,235	241,341	38%
4	4 years - 100%, 75%, 65%, 30%	434,413	209,162	33%
5	3 years - 1st year full protection, 2 years 2 grades above new grade	482,682	160,894	25%

N.B. Figures relate to 39 General Fund employees in protection as at 30/03/2017

11. The Council is committed to ensuring that the negative impact of changes to the workforce are minimised as far as possible and employees continue to receive some level of protection when changes affect their pay. However, it is no longer financially viable to continue offering the current pay protection arrangements.
12. Consideration has been given to what level of pay protection is appropriate given the ongoing significant financial pressures.

Trade Union Response

13. The trade unions stress that protection is not a cost, and that the Council are not adding to the pay bill. Furthermore Gateshead Council should be proud to have a good protection agreement and should not be negatively influenced by other local authorities. The trade unions also stress that whilst other budget savings are made

through efficiencies, this proposal is funded entirely by taking money out of employees' pockets as their wages are reduced.

14. The trade unions' initial position was that they could not agree a reduction from 4 years protection; however, following extensive discussions they have confirmed that they would be prepared to take one of the following options to their members:
 - Preferred option: 3 years protection with the first year being SCP protection and the remaining 2 years the employee is protected by a maximum of two grades above the new grade (25% saving) or
 - Alternative option: 4 years protection with the level of protection tapering over each year i.e. 100% protection in year one, 75% in year 2, 50% in year 3 and 25% in year 4 (38% saving).
15. The trade unions have stated that if the policy is changed, they do not see any further reviews as being necessary in the near future.
16. The trade unions have also requested that where an employee is in pay protection, managers commit to identifying through the A&D process opportunities for development which would support the employee to get out of pay protection. The A&D guidance has been revised to reflect this.
17. As it is in the interests of all parties for the revised A&D procedure to work effectively, the trade unions maintain that accurate monitoring of its success is integral to the process. Accordingly they would look to agree the basis and timescale on which relevant data will be supplied, including the details of individuals in receipt of pay protection. In particular, the unions have highlighted their concerns that effort needs to be put into this at all levels, as in their experience it has been applied for more senior employees rather than those on lower grades.
18. Assurances will be provided regarding ensuring the effective roll-out of the Council's A&D process and regular monitoring by senior management. Performance information regarding completion of A&Ds and who is in receipt of pay protection will be shared regularly with the trade unions.
19. Having considered carefully the trade unions' representation, the proposal is to retain the 4 year protection period; however, the level of protection will taper over each year (100% protection in year one, 75% in year 2, 50% in year 3 and 25% in year 4) from 1 October 2017.
20. The saving to the Council in introducing the tapering arrangements over the 4 years (£241k or 38% of the current cost).
21. It is likely that there will be a significant amount of change going forward resulting in services undertaking restructures or potential redundancy situations. This could significantly increase the number of people who receive pay protection; therefore the tapering over the pay protection period proposed will still enable changes to the workforce whilst at the same time reducing the costs of employment.
22. This proposal would deliver a significant saving to the costs of pay protection. It will also support services that are looking to transform, generate income, and become more financially stable from not having such high pay protection costs.

23. Having tapering over the protection period will ensure that both employees and managers are motivated to identify suitable development opportunities that will support the employee to get out of pay protection as soon as possible.
24. As the Council will need to continue to find new ways to deliver more for less due to severe constraints on funding, there is a need to ensure services offer people greater choice and control over their daily lives and to engage actively with the public to develop them. The workforce also needs to be able to adapt not just to any immediate changes, but to be flexible enough to continually adapt to any roles that may be required in the future.
25. Tackling these issues can only be done in conjunction with re-training / upskilling and re-motivating staff to cope with the challenge this presents. It is vital that employees, including those that have been redeployed into alternative roles as a result of organisational change or as an alternative to redundancy are supported to develop to ensure they have the right skills and experience to be a part of the workforce of the future.
26. Gateshead is the only employer currently offering a protection period of four years. The protection arrangements of other local authorities in the region are all less generous than Gateshead's:
- Redcar & Cleveland – no pay protection
 - Middlesbrough – no pay protection
 - Sunderland - 1 year,
 - South Tyneside - 1 year,
 - Newcastle - 1 year,
 - Durham - 1 year,
 - North Tyneside – 2 years with a £6,000 cap
 - Northumberland - currently 3 years but considering reducing to 6 months or 1 year.
 - Darlington – 3 years with tapering (100%, 50%, 25%)
 - Hartlepool – 3 years
27. It is recommended that the proposals to retain the 4 year protection period, with the level of protection tapering over each year from 1 October 2017, is implemented in order to contribute to the savings in the cost of employment, improve efficiency and allow the Council to operate as a modern organisation with appropriate employment policies which are affordable and competitive.
28. The proposed changes will only impact on employees who are subject to pay protection in the future.
29. Although there are no further plans to review the Council's pay protection arrangements, it may be appropriate to revisit it in due course.

Consultation

30. The views of the Leader and Deputy Leader of the Council have been sought in drafting this report. The Council's recognised non-teaching Trade Unions have also been consulted (see above) and their views taken into account in the drafting of the proposals.

Alternative Options

31. The Council could decide to make no change to the pay protection; however, this alternative will not deliver savings.

Implications of Recommended Option

32. Resources:

- a) Financial Implications** – The Strategic Director, Corporate Resources, confirms that the recommendations included in this report will deliver a 38% saving in the cost of pay protection compared with current arrangements.
- b) Human Resources Implications** – the human resources implications are considered throughout this report.
- c) Property Implications** – there are no property implications arising from the recommendations within this report.

33. **Risk Management Implication** - Failure to implement the recommended option would result in the potential identified savings not being achieved.

34. **Equality and Diversity Implications** – an Equality Impact Assessment has been undertaken to analyse the impact of the proposal against the 9 protected characteristics. The proposal would be applied equally to all staff, however due to our workforce profile there is the potential for the proposal to impact white, heterosexual females the most. The impact will need to be monitored and reviewed and this will be carried out on a regular basis. The Equality Impact Assessment can be found in the Council's online papers.

35. **Crime and Disorder Implications** – There are no crime and disorder implications.

36. **Health Implications** - There are no health implications.

37. **Sustainability Implications** - There are no sustainability implications.

38. **Human Rights Implications** - There are no human rights implications.

39. **Area and Ward Implications** - There are no area and ward implications.

40. **Background Information**